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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2013-0083; Notice 2]

Spartan Motors, Inc. on Behalf of Spartan Motors Chassis, Inc.,

Grant of Petition for

Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration (NHTSA),  
Department of Transportation (DOT).

**ACTION:** Grant of Petition.

**SUMMARY:** Spartan Motors, Inc. on behalf of Spartan Motors Chassis, Inc. (Spartan) has determined that certain model year 2008 through 2013 Spartan Gladiator and MetroStar chassis cabs do not fully comply with paragraph S5.3.3.1(a) of Federal Motor Vehicle Safety Standard (FMVSS) No. 121, *Air Brake Systems*. Spartan has filed an appropriate report dated April 19, 2013, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*.

**ADDRESSES:** For further information on this decision contact James Jones, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5294, facsimile (202) 366-3081.

**SUPPLEMENTARY INFORMATION:**

**I. Spartan's Petition:** Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR Part 556, Spartan has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the petition was published, with a 30-day public comment period, on September 25, 2013 in the Federal Register (78 FR 59089). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at:

<http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2013-0083."

**II. Chassis Cabs Involved:** Affected are approximately 26 model year 2008 through 2013 Spartan Gladiator and MetroStar chassis cabs manufactured between April 9, 2008 and January 14, 2013.

**III. Noncompliance:** Spartan explains that it has determined that certain emergency rescue chassis cabs built between April 9, 2009 and January 14, 2013 may not meet the brake actuation time for trucks as identified in §5.3.3 of FMVSS No. 121.

**IV. Rule Text:** Section S5.3.3 of FMVSS No. 121 specifically states:

S5.3.3 Brake actuation time. Each service brake system shall meet the requirements of S5.3.3.1 (a) and (b).

S5.3.3.1(a) With an initial service reservoir system air pressure of 100 psi, the air pressure in each brake chamber shall, when measured from the first movement of the service brake control, reach 60 psi in not more than 0.45 second in the case of trucks and buses,...

**V. Summary of Spartan's Analyses:** Spartan stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

Section 5.3.3.1 of FMVSS No. 121 defines the amount of pressure (60 psi) for, in this case, the front brake chambers. Further, it also defines a "not to exceed" time (0.45 seconds) in which that pressure at the brake chamber must be achieved. This is not interpreted to mean brakes are to be applied at 60 psi but rather a certain pressure at the brake chamber will be achieved. Brakes will be applied nearly instantaneously after actuation of the treadle valve.

Spartan conducted three tests on a sample of three chassis cabs of similar brake system configurations. Detailed results from the testing are shown in Spartan's petition. The reported average was used to determine the actual results in comparison

to the requirements. By rounding the average of the three tests for each sample, Spartan Chassis identified it exceeds the requirements by 0.01 second.

The measurement of time, in this case, is for when air pressure at the chamber reaches 60 psi. As stated, the brakes are still being applied irrespective of achieving the 60 psi pressure at the front brake chambers. The impact of being 0.006 to 0.01 seconds above the requirement of 0.45 seconds would have very little impact (approximately 1 ft @ 60 mph) to stopping distance of the vehicle and would not impede the capability of the vehicle being able to stop.

According to Driver's License Manual, stopping distance is impacted by driver perception distance and reaction distance. Other factors include speed and gross weight of the vehicle. These attributes would appear to have a more significant impact to overall stopping distance than 0.01 second timing for air pressure to reach 60 psi at the front brake chambers.

From a speed of 60 mph, vehicles affected by this condition are required to achieve a complete stop in 310 ft. At this speed, it would take approximately 3.52 seconds for vehicles to stop at this rate of speed. Vehicles affected by the condition that has resulted in the identified non-compliance are capable of stopping within the distance of 310 ft as prescribed by FMVSS

No. 121 and would still be able to stop within the required stopping distance.

Spartan has additionally informed NHTSA that it has corrected the noncompliance so that all future production Gladiator and MetroStar chassis cabs will comply with FMVSS No. 121.

In summation, Spartan believes that the described noncompliance of the subject chassis cabs is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

**VI. NHTSA Decision:** Spartan's argument in support of the petition is reasonable. NHTSA agrees that the braking performance of subject noncompliant vehicles is not adversely affected as a result of longer pneumatic brake actuation times of 0.006 to 0.01 seconds. The theoretical calculations performed by Spartan indicate an increase of approximately one foot in stopping distance at 60 mph for noncompliant vehicles when compared to compliant vehicles. This minimal increase in stopping distance does not affect the noncompliant vehicle's conformance with the 60 mph stopping distance requirement of 310 feet. Therefore, the very small number of affected noncompliant

vehicles does not appear to pose an undue safety risk in braking performance in comparison to compliant vehicles.

NHTSA is also not aware of any customer complaints or field reports relating to this issue, and Spartan has stated that it has corrected the problem that caused the noncompliance so that it will not be repeated in future production.

In consideration of the foregoing, NHTSA has decided that Spartan has met its burden of persuasion that the FMVSS No. 121 noncompliance is inconsequential to motor vehicle safety. Accordingly, Spartan's petition is hereby granted and Spartan is exempted from the obligation of providing notification of, and a remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject noncompliant chassis cabs that Spartan no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or

delivery for introduction into interstate commerce of the noncompliant chassis cabs under their control after Spartan notified them that the subject noncompliance existed.

**Authority:** (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8).

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Claude H. Harris, Director,  
Office of Vehicle Safety Compliance.

**Billing Code:** 4910-59-P

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